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10/693,129 10/24/2003 Barbara Jennings 20475-1 1695

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CLIFFORD A. POFF  
9800B MCKNIGHT ROAD  
SUITE 115  
PITTSBURGH, PA 15237

EXAMINER
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HOEY, ALISSA L

ART UNIT	PAPER NUMBER
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3765

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Group 3700

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/693,129  
Filing Date: October 24, 2003  
Appellant(s): JENNINGS, BARBARA

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Clifford A. Poff  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12/20/06 appealing from the Office action  
mailed 12/23/05.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

No amendment after final has been filed.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: claim 18 is not rejected in the office action of 12/23/05 by Harlem (5,799,328). This was a typo left in the office action. Claim 18 is only rejection by Jennings (6,230,329) and as supported in office action dated 12/23/05.

Claims 2, 3, 5, 6, 13, 14, 18 and 21 are rejected by Jennings (US 6, 230, 329) under 35 U.S.C. 102 (b).

Claim 7 is rejected by Jennings (US 6, 230, 329) under 35 U.S.C. 103(a).

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,230,329

Jennings

05-2001

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2, 3, 5, 6, 13, 14, 18 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Jennings (US 6,230,329).

In regard to claim 21, Jennings teaches a garment (10) used by a caregiver to manipulate a patient, the garment comprising a garment body including a front garment portion and a back garment portion for traversing front and back areas of a patient between at least the waist line area to a right tail portion (24) and a left tail portion (24) forming a garment body interconnection between the front garment portion and the back garment portions (figure 3). The right tail portion and the left tail portion passing through the groin area of the patient to anchor the garment body in a direction perpendicular to the waist line area (figures 3). Attachment devices (22) carried by a distal end of the right tail portion (24) and a distal end of the left tail portion (24) to form interconnections

with the garment body (figures 3 and 4). A plurality of handholds (38, 44, 36, 46) on the garment body for use by a caregiver to manipulate the patient (column 1, lines 19-39).

In regard to claim 2, Jennings teaches short trouser garment leg portions and attachment devices operable along an inseam of the short trouser garment leg portions for reattachment of garment margins along the inseam (Figures 3 and 4, column 4, lines 5-13).

In regard to claim 3, Jennings teaches short trouser garment leg portions having an opening in the crotch area to avoid compression of genital organs of a male patient (figures 3 and 4, identifiers 21, 22: column 3, lines 49-52 and column 5, lines 29-34).

In regard to claim 5, Jennings teaches the garment body being made of a soft, quilted fabric for patients who generally remain in bed (column 4, lines 28-46).

In regard to claim 6, Jennings teaches the garment body being made of a non-stretch fabric for a patient (column 3, lines 1-9).

In regard to claim 13, Jennings teaches the garment body indulging side garment portions between the front garment portion and the back garment portion. The plurality of handholds further includes at least two handholds (38) disposed on the side garment portions (figures 3 and 4).

In regard to claim 14, Jennings teaches at least one of the handholds are formed in the garment body and includes a pair of parallel openings defining a strap there between for grasping by a caregiver (Figure 2).

In regard to claim 18, Jennings teaches a plurality of handholds (44) including at least one rigid member in the garment body for improving a grip by a caregiver to manipulate a patient (column 4, lines 17-23; column 5, lines 35-45).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jennings.

Jennings fails to teach a left loop and a right loop disposed on the front garment portion for passage of each of distal end of the right tail portion and the distal end of the left tail portion, back on itself.

In regard to claim 7, Jennings teaches a right tail portion and a left tail portion and attachment devices carried by a distal end of the right tail portion and distal end of the left tail portion (figure 1, identifiers 22, 24).

It would have been obvious to have provided the distal end of the right and left tail portions attaching directly to the garment front portion or passed through loops and attached back upon itself, because as long as the distal ends of the left and right tail portions are fastened to the front of the garment and provide access to the users crotch along with adjusting comfort than the type of fastening arrangement is not critical. Therefore, the fastening devices of the right and left distal end portion of the tail being

attached to the garment or looped around and attached back to itself are equivalents since they both secure the tail portions in place.

**(10) Response to Argument**

I) Applicant argues that Jennings (US 6, 230, 329) fails to anticipate the following:

“a right tail portion and a left tail portion forming a garment body interconnection between said front garment portion and said back garment portion passing through the groin area of said patient to anchor said garment body in a direction perpendicular to said waist line area.”

Examiner disagrees since as seen in figure 1 of Jennings, right tail portion and left tail portion is the left and right portion of flap 21. There is no limitation in the claim detailing that there are two tail portions. The claim limitation only requires that there is a right tail portion and a left tail portion which is clearly shown as the left side and right side of tail portion 21.

II) Applicant's arguments to Harlem are moot, since the indication of claim 18 to be rejected by Harlem was a typo. Claim 18 is rejected over Jennings, not Harlem (see above).


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**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Alissa L. Hoey

ALISSA HOEY  
PRIMARY EXAMINER  
TECHNOLOGY CENTER 3700

Conferees:

Gary Welton



Marc Jimenez

